



Entered on Docket
May 14, 2007

A handwritten signature in dark ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle
United States Bankruptcy Judge

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS, LLC,

USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,

USA CAPITAL FIRST TRUST DEED FUND,
LLC,

USA SECURITIES, LLC.

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case
No. BK-S-06-10725-LBR

**STIPULATED ORDER RE NOTICE OF
AMENDED SCHEDULES AND
DEADLINE TO FILE PROOFS OF
CLAIM**

1 The USACM Liquidating Trust (the “USACM Trust”), USA Commercial Mortgage
2 Company (“USACM”), and the Office of the United States Trustee, stipulated to entry of
3 this order. Based upon the stipulation of the parties, the Court finds as follows,

4 These Chapter 11 bankruptcy cases were commenced by the filing of voluntary
5 petitions on April 13, 2006.

6 On June 15, 2006, USACM filed its original Schedules of Assets and Liabilities
7 (DE 682). On June 23, 2006, USACM filed its first set of amendments to the Schedules
8 (DE 784).

9 On January 8, 2007, this Court entered its Order Confirming the “Debtors’ Third
10 Amended Joint Chapter 11 Plan of Reorganization” (DE 2376).

11 After the filing of the June 2006 Schedules, and before the Plan was confirmed,
12 USACM obtained additional information with respect to the nature of claims listed on the
13 Schedules, those that should be listed as disputed, and those that were in incorrect
14 amounts.

15 Schedule F-1 was the Schedule of Sums Owed to Direct Lenders for unremitted
16 principal. As USACM refined its analysis, the amount shown as unremitted principal on
17 direct lender monthly statements were revised.

18 On March 7, 2007, USACM filed second amendments to the Schedules which
19 replaced all previously filed Schedules E, F, F-1, and G, and created a new Schedule F-2
20 (DE 3002).

21 The new amendments were filed to make the following changes:

- 22 • Schedule E was amended to list the claims of former USACM loan brokers
23 as “disputed” claims where they had previously not been listed as disputed.
 - 24 • Schedule F was amended to list certain claims as “disputed” where they had
25 not been listed as disputed.
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1 • Schedule F-1 was amended to list certain claims as “disputed” and to revise
2 the amounts of many of the unremitted principal claims to match the amounts shown on
3 the direct lender monthly investor statements.

4 • Schedule F-2 was added to list claims that are based on checks drawn from
5 USACM’s collection account that were returned unpaid to the payees shortly after the date
6 of the bankruptcy filings.

7 • Schedule G was amended to remove all loan servicing agreements in
8 accordance with the plan and confirmation order.

9 On March 20, 2007, USACM filed third amendments to Schedule F-1 (DE 3188) to
10 add four claims to Schedule F-1 that were erroneously omitted from the second
11 amendment to schedules. There were no other changes in the third amendment.

12 The parties affected adversely by the amendments after confirmation of the plan are
13 those whose claims are now listed as “disputed” and those with claim amounts that were
14 amended and shown in lower amounts. Hereafter, these are the “Affected Claimants.”

15 Bankruptcy Rule 1009(a) requires that notice of amended schedules be given “to
16 any entity affected thereby.” However, fundamental principles of due process require that
17 a creditor be advised when a claim is no longer listed as undisputed or liquidated in light
18 of the provisions of Bankruptcy Rule 3003(b)(1).

19 The Court has discretion to set the time within which proofs of claim may be filed
20 pursuant to Bankruptcy Rule 3003(c)(3). Given the pendency of these cases, the
21 thousands of proofs of claim which have already been filed, and the post-confirmation
22 nature of this proceeding, the opportunity to file a proof of unsecured claim or an amended
23 proof of unsecured claim within 30 days after service of notice of the amendment is
24 sufficient to satisfy principles of due process.

25 Good cause appearing,

26 IT IS ORDERED that the Affected Claimants shall be provided notice of the
27 amendments and of the entry of this order and of the opportunity to file a proof of
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unsecured claim (or an amended proof of claim). The deadline for such proof of claim shall be 30 days from the date of service of the notice.

United States Bankruptcy Judge
District of Nevada

So Stipulated by:

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